

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
DECEMBER 9, 2005**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on December 9, 2005, beginning at 10:00 a.m. The meeting was tape-recorded and the tape(s) are on file at the ABC Commission in the Legal Division.

**ROLL CALL**

Chairman Douglas A. Fox and Commissioner Mike Joyner were present at the meeting.

**MINUTES OF NOVEMBER 9, 2005, MEETING**

Chairman Fox made a motion to waive the reading of the minutes from the November 9, 2005, meeting into the record. Seconded by Commissioner Joyner. So Ordered. Chairman Fox made a motion to approve the minutes from the November 9, 2005, meeting. Seconded by Commissioner Joyner. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number One, Chairman Fox asked Commissioner Joyner if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Joyner stated that he found no conflicts of interest. Chairman Fox stated that he found no conflicts.

**I. HEARING CASES - 75 Listed**

Chief Deputy Counsel Fred Gregory stated that Mr. Glenn Lassiter was present to speak on behalf of Kangaroo Express 312. Mr. Lassiter stated that he had planned to be at the November 9<sup>th</sup> Commission meeting to speak to the Commission regarding this case, but because the meeting was scheduled for a Wednesday, and because he had a conflict with District Court in Pittsboro, he was unable to make the meeting. He went on to state that by the time he realized that he wouldn't be able to make the meeting, he tried calling, but the Commission meeting had already started. Mr. Lassiter asked the Commission to waive the active suspension.

Chairman Fox asked Mr. Lassiter if this was a "sting operation". Mr. Lassiter stated that it was. Chairman Fox asked Assistant Counsel LoRita Pinnix if she had any suggestions or anything to add. Ms. Pinnix stated that she wouldn't be opposed to waiving the active suspension if they attended a RASP class. Chairman Fox asked Ms. Pinnix if she had any objections to an increase in fine plus attending a RASP class. Ms. Pinnix stated that she had no objections. Chairman Fox made a motion to increase the penalty to \$4,000.00 upon the stipulation that they complete a RASP class. Seconded by Commissioner Joyner. So Ordered.

Mr. Gregory stated that Mr. Amjad Khan was present to speak on behalf of First Offense case #44, B & S Super Market II. Mr. Scotty Ryerson, a vendor for Coca Cola Consolidated who works Mr. Khan's store, was present with Mr. Khan to help with any communication gaps. Mr. Ryerson stated that on the day the violation occurred Mr. Khan had just returned from Pakistan regarding the passing of one of his sons. Mr. Khan actually returned earlier than he had planned because the gentleman he left running the store while he was out of the country had a heart attack. The gentleman's son, Younus Ahmed, was helping Mr. Khan run the store; there were a lot of communication gaps with Mr. Khan still dealing with the loss of his son. Mr. Ahmed asked Mr. Khan to look at the ID, Mr. Khan said that it was ok, but he was not aware that alcohol was involved, he thought it was just tobacco sale.

Mr. Ryerson stated that he has known Mr. Khan for a little over a year since servicing his store and Mr. Khan is very critical of checking identification before making alcohol and tobacco sales.

Chairman Fox asked if Mr. Khan has taken any ALE Education Classes. Mr. Khan stated that he has.

Chairman Fox made a motion to reduce the penalty to \$1,000.00 upon the stipulation he attend a RASP class. Seconded by Commissioner Joyner. So Ordered.

Mr. Gregory stated that Mr. Yogesh Manocha was present to speak on behalf of First Offense case #43, Grocery Boy Jr 40. Mr. Manocha stated that the day the violation occurred he had to leave the store and take his sick daughter some medicine. He went on to state that he left his brother, Naresh Manocha, in charge of the store while he was away. His brother thought someone was trying to steal some gum, so he was paying close attention to that person. When the minor showed him her ID, he looked at it but was in a hurry to complete the sale and didn't realize she was twenty years old and not twenty-one years old. Mr. Manocha stated that about six months ago they were scheduled to attend a RASP class, but it was cancelled. Since then he has printed some of the rules and posted them in the store and around the register.

Commissioner Joyner asked if the clerk has to figure the birthdate up in his head. Mr. Manocha stated that they have the "We Card" calendars. He went on to state that he felt that his brother couldn't handle the pressure or the stress of ringing customers up and watching to make sure nothing was stolen.

Chairman Fox asked Mr. Manocha how many employees does he have. Mr. Manocha stated that he has two employees.

Mr. Manocha stated that he sends his neighbor's son into the store to try to purchase alcohol during a busy time to see if his employees will sale to him. He went on to state that it has worked very well.

Commissioner Joyner asked Mr. Manocha if he was in the store most of the time. Mr. Manocha stated that he was.

Chairman Fox made a motion to reduce penalty to \$500.00 upon the stipulation they attend a RASP class. Seconded by Commissioner Joyner. So Ordered.

Mr. Gregory stated that Mr. Muneir Hamed, owner of hearing case #71, J Cash Mart, was present to speak on behalf of his business. Mr. Hamed stated that he lives in New York and his manager runs the business for him. The employee hid the violation from the manager. The manger became aware of the violation after reviewing the surveillance tapes. The manager asked the employee about it and she denied the violation, but later told the manager that the violation would be on her and not the business. The manager was working in the other store working when the violation occurred.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that they attend a RASP class. Seconded by Commissioner Joyner.

Assistant Counsel Timothy W. Morse stated the permittee for Bessemer Curb Market had called him and asked if the date could be change to reflect the December compliance dates. Chairman Fox made a motion to amend the order to reflect the December compliance dates. Seconded by Commissioner Fox. So Ordered.

Mr. Gregory stated that the following cases were add ons and had come in after the agenda was prepared. Hearing cases #73 – Big Kmart 7208, #74, West Mount Express and #75 Ringside.

Chairman Fox made a motion to approve the remaining Offers in Compromise with the exception of Kangaroo Express 312 and case #71 J Cash Mart, which had been earlier, ratified. Seconded by Commissioner Joyner. So Ordered.

## **II. FIRST OFFENSE CASES – 44 Listed**

The following is a list of first offense violation cases in which Final Agency Decisions were signed by the Chairman on December 9, 2005, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Fast Fuel Food Mart 2 – 22 Airport Road, Arden, NC 28704
2. Hawthornes NY Pizza and Bar – 1701 East 7<sup>th</sup> Street, Charlotte, NC 28204
3. Jays Grocery and Hardware – 3500 Summit Avenue, Greensboro, NC 27405
4. Los Potrillos Mexican Restaurant – 220 West Rosemary Street, Chapel Hill, NC 27516
5. M and B Supermarket – 302 East Wellons Street, Four Oaks, NC 27524
6. Fast Break Food Shop – 1113 Spindale Street, Spindale, NC 28160
7. Phillips 66 – 122 Roanoke Avenue, Roanoke Rapids, NC 27870
8. Portofino Italian Restaurant & Pizzeria – 3124 Eastway Drive, Charlotte, NC 28205
9. Red Apple 47 – 120 West Boulevard, Williamston, NC 27892
10. Recreation Billiards – 412 West Fourth Street, Winston-Salem, NC 27101
11. Interstate Hardware – 104 Sugarloaf Road, Hendersonville, NC 28792
12. Rushco Food Store 17 – 108 Brawley School Road, Mooresville, NC 28115
13. Sams Mart 785 – 816 Randolph Street, Thomasville, NC 27360
14. Short Stop 71 – 105 East Connecticut Avenue, Southern Pines, NC 28387
15. Short Stop Food Market – 217 South Ireland Street, Burlington, NC 27217
16. Southside Seafood and Grocery – 800 East 35<sup>th</sup> Street, Charlotte, NC 28205
17. Carolina Fast Mart 2 – 5104 Hwy 49, Concord, NC 28025
18. Chilis Grill and Bar – 100 Stratford Commons Court, Winston-Salem, NC 27103
19. Iron Thunder Saloon – 2022 13<sup>th</sup> Avenue Drive SE, Hickory, NC 28602
20. J S Food Mart 1 – 1542 Weeksville Road, Elizabeth City, NC 27909
21. O B Gas and Convenience – 814 Ocean Trail, Corolla, NC 27927
22. Old Stoneys Beer and Wine Store – 501 Old Stoneys Road Unit A, Corolla, NC 27927
23. Lions Lair – 2107 Kirkwood Street, Suite 103, High Point, NC 27262
24. Hendersonville Bay Breeze Seafood Restaurant – 1830-A Asheville Hwy, Hendersonville, NC 28791
25. Eckerd Drugs 2911 – 2711 Jones Franklin Road, Cary, NC 27511
26. Las Carolinas Supermarket – 505 Wake Chapel Road, Fuquay-Varina, 27526
27. Bottles – 130 Main Street Unit 202 Village Condo, Banner Elk, NC 28604
28. Buy and Go – 5595 Shatalon Drive, Winston-Salem, NC 27106
29. Wilco 107 – 3715 Peters Creek Parkway, Winston-Salem, NC 27127
30. Zip N Mart 2 – 4787 Arabia Road, Raeford, NC 28376
31. Stop and Shop – 610 North Haughton Street, Williamston, NC 27892
32. Wilco 1816 – 929 South Garnett Street, Henderson, NC 27536
33. Ideal Food Mart – 458 West Market Street, Smithfield, NC 27577
34. Tienda Lupitas – 2703-C High Point Road, Greensboro, NC 27403
35. Southern Convenience 107 – 501 East Main Street, Spindale, NC 28160
36. D-Rays – 325 Mangrove Drive, Emerald Isle, NC 28594
37. Wal Mart Supercenter 2845 – 14215 US Hwy 64 West, Siler City, NC 27344
38. Tar Heels Lanes – 2617 North Main Street, High Point, NC 27265
39. Sandys Convenience Mart – 100 South Pender Street, Wilson, NC 27893
40. Short Stop 54 – 148 Davis Bridge Road, Parkton, NC 28371
41. Ronnies Quick Shop – 705 Laurinburg Road, Raeford, NC 28376
42. Randys Mart 2 – 800 Bryan Street, Thomasville, NC 27360
43. Grocery Boy Jr 40 – 2525 Jones Franklin Road, Raleigh, NC 27606
44. B & S Super Market II – 2850 South Main Street, Winston-Salem, NC 27127

Chairman Fox made a motion to approve the remaining Offers in Compromise for the First Offense cases, with the exception of First Offense cases #43, Grocery Boy Jr. 40 and case #44, B & S super Market II, which had been ratified earlier. Seconded by Commissioner Joyner. So Ordered.

### **III. ABC STORE LOCATION – CARTERET COUNTY ABC BOARD**

Administrator Michael Herring addressed the Commission concerning the proposed relocation of the Atlantic Beach store. On November 15, 2005, the Commission received a letter from R. D. Shipp, Jr, Administrator, for the Carteret County ABC Board, requesting approval to relocate the Atlantic Beach store located at 101 Cedar Lane, Atlantic Beach, NC, to across the street at 100 Cedar Lane, Atlantic Beach, NC. On November 22, 2005, Alcohol Law Enforcement Agent Russell King conducted an investigation and found that the property that they are planning to move to has two lots. The Carteret County ABC Board owns one of the lots, which they had used for overflow parking. They plan to purchase the adjacent lot for \$295,000.00. The purpose of the relocation is to provide a larger and more modern ABC Store. No conflict of interest exists between the property owners and the Carteret County ABC Board.

The nearest church is Boque Baptist Church and is approximately 8/10 miles from the proposed location. The nearest school is Morehead City Middle School located 2.9 miles from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on November 7, 2005, in compliance with the ABC Commission's 30-day requirement. The ABC Commission has received no objections.

Mr. Herring recommended that the ABC Commission approve the relocation request. Chairman Fox made a motion to approve the relocation. Seconded by Commissioner Joyner. So Ordered.

### **IV. ABC STORE LOCATION – MECKLENBURG COUNTY STORE #7**

Administrator Michael Herring addressed the Commission concerning the opening of a new store in Cots Village Shops. On October 31, 2005, the Commission received a request from Calvin W. M McDougal, Chief Executive Officer for the Mecklenburg County ABC Board, requesting approval to open a new store. On November 8, 2005, Alcohol Law Enforcement Supervisor J. Richard Griffin conducted an investigation and found that six Limited Liability Corporations own the property. They are as follows: Cotswold Center Abbey Court, LLC; Cotswold Center Treybbroke, LL; Cotswold Hunnington, LLC; Cotswold Center Oak Crest, LLC; Cotswold Center Oscar Lennard, LLC and Cotswold Center Marilyn K. Lennard, LLC. The Mecklenburg County ABC Board has not signed a lease with the property owner, but the tentative terms of the two-five year terms are \$30.00 per square foot with 1% increase every year. No conflict of interest exists between the six LLC's and the Mecklenburg County ABC Board.

The nearest church is Unitarian Universalist Church and is approximately .3 miles from the proposed location. The nearest school is Cotswold Elementary School and is .4 of a mile form the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on October 25, 2005, in compliance with the ABC Commission's 30-day requirement. The Mecklenburg County ABC Board has received two objections in opposition to the store, based on the sale of alcoholic beverages in the area. The Commission has received no objections.

Mr. Herring recommended that the ABC Commission approve the request. Chairman Fox made a motion to approve the new store location. Seconded by Commissioner Joyner. So Ordered.

### **V. ABC STORE LOCATION MECKLENBURG COUNTY STORE #16**

Administrator Michael Herring addressed the Commission concerning the relocation of an ABC Store. On October 31, 2005, the Commission received a request from Calvin W. M McDougal, Chief Executive Officer for Mecklenburg County ABC Board, requesting approval to relocate its current store located at 3331 Pineville-Matthews Road, Charlotte, NC to 3425 Pineville-Matthews Road, Charlotte, NC. On November 8, 2005, Alcohol Law Enforcement Supervisor J. Richard Griffin conducted an investigation and found that AAC-Arboretum Joint Venture #3, LLC, owns the proposed property. The Mecklenburg County ABC Board is considering a tentative lease agreement, with the terms being a ten-year lease at \$30.00 per square foot for

the first five years and \$33.00 per square foot for the last five years. No conflict of interest exists between the property owners and the Mecklenburg County ABC Board.

Pursuant to ABC Commission Rules, Notice of Intent was posted on October 25, 2005, in compliance with the ABC Commission's 30-day requirement. The Mecklenburg County ABC Board has received two calls and the callers were satisfied by the answers the Mecklenburg County ABC Board gave them.

Mr. Herring recommended that the ABC Commission approve the request. Chairman Fox made a motion to approve the new store location. Seconded by Commissioner Joyner. So Ordered.

With no further business, the meeting adjourned.

---

Douglas A. Fox  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

---

Tiffany Goodson, Legal Division